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CITY AND COUNTY OF SAN FRANCISCO
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15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA

17 HASTINGS COLLEGE OF THE LAW, a
public trust and institution of higher education
duly organized under the laws and the
Constitution of the State of California;
FALLON VICTORIA, an individual; RENE
DENIS, an individual; TENDERLOIN
MERCHANTS AND PROPERTY
ASSOCIATION, a business association;
RANDY HUGHES, an individual; and
KRISTEN VILLALOBOS, an individual,

22 Plaintiffs,

23 vs.

24 CITY AND COUNTY OF SAN
FRANCISCO, a municipal entity,
25

Defendant.

Case No. 4:20-cv-3033 JST

**ADMINISTRATIVE MOTION TO CONSIDER
WHETHER CASES SHOULD BE RELATED
PURSUANT TO CIVIL LOCAL RULE 3-12**

Trial Date: Not Set

INTRODUCTION

Defendant City and County of San Francisco (“the City”) respectfully submits this Administrative Motion moving for a court order finding that this case, *Hastings College of Law et al. v. County of San Francisco, et al.*, (“*Hastings*”), is related to two later filed actions regarding the City’s response to the homeless crisis created by COVID-19 in the Tenderloin and neighboring areas. The second related action is *Daniel Giosso, James Giosso, and Richard Giosso, Trustees of the Giosso Children’s Trust; Mike O’Neill and Sons, a California General Partnership*, 3:20-cv-04255-TSH, (“*Giosso*”), filed on June 26, 2020. Declaration of Ryan Stevens (“Stevens Dec”), Ex. A. The third related action is *Erin Maher, Jason Reindorp, Nick Medina, Monica Calmer, South of Market Business Association, 570 Jessie LLC, Sierrec LLC dba Montesacro Pinserie Romana, Megali Souvla Inc, dbd Souvla, Design like Whoa LLC v. City and County of San Francisco*, 4:20-cv-04771-KAW, (“*Maher*”), filed on July 16, 2020. (Stevens Dec, Ex. B.) Plaintiffs in the *Hastings* action sought injunctive and declaratory relief requiring the removal of tents from sidewalks in the Tenderloin. Plaintiffs in the *Giosso* action seek nearly identical injunctive relief and sue regarding property that they allege is in the Tenderloin, although the City disputes that the property in that action is located within the bounds of the Tenderloin neighborhood. Plaintiffs in the *Maher* action seek nearly identical relief in the “mid-market” neighborhood that borders the Tenderloin. While the *Hastings* action has settled pending approval by the San Francisco Board of Supervisors, a complaint-in-intervention remains pending and if the Board does not approve the settlement then litigation resumes.

Plaintiffs in this action have advised the City that they do not oppose this motion to relate the three actions; however, Plaintiffs in this action asked us to state that they do not consent to any consolidation or joinder of the actions. Stevens Dec ¶ 3. Intervenors in this action have stated that they do not oppose relation of all three cases. Stevens Dec ¶ 4. Plaintiffs in the *Giosso* action had not responded to the City's email requesting their position regarding relation as of the time of this filing. Stevens Dec ¶ 5. Plaintiffs in the *Maher* action had not responded to the City's email request their position regarding relation as of the time of this filing. Stevens Dec ¶ 6.

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1 **II. LEGAL STANDARD**

2 Under Civil Local Rule 3-12(a), “[a]n action is related to another when (1) the actions concern
 3 substantially the same parties, property, transaction, or event; and (2) it appears likely that there will
 4 be an unduly burdensome duplication of labor and expense or conflicting results if the cases are
 5 conducted before different judges.” Civ. L. R. 3-12(a). A party that believes that an action may be
 6 related to another action that “is or was” pending in this District “must promptly file in the lowest-
 7 numbered case an Administrative Motion to Consider Whether Cases Should Be Related, pursuant to
 8 Civil L.R. 7-11.” Civ. L. R. 3-12(b).

9 **III. RELATIONSHIP OF THE ACTIONS**

10 First, actions may be considered to “concern substantially the same parties, property,
 11 transaction, or event” under Local Rule 3-12(a)(1). Civ. L. R. 3-12(a)(1). Here, the plaintiffs in the
 12 actions are different, but both cases sue the City over the neighborhood impacts of the homeless crisis
 13 caused by COVID-19. There is a substantial overlap in factual allegations and legal claims. The
 14 *Giosso* action appears to be in large part copied and pasted from the *Hastings* action. Stevens Dec, Ex.
 15 A, *Giosso* Complaint. The *Maher* Complaint is similarly copied and pasted from the *Hastings* action.
 16 Stevens Dec, Ex. B, *Maher* Complaint. Many paragraphs setting forth the causes of action in the
 17 *Giosso* Complaint seem to have been copied directly from the *Hastings* Complaint and all of the
 18 causes of action in the *Giosso* Complaint are contained within the *Hastings* Complaint. See *Giosso*
 19 Complaint ¶¶ 45-91. All of the causes of action in the *Maher* Complaint are present in both the *Giosso*
 20 and *Hastings* complaints. These factors warrant treating the actions as related. *See, e.g. Our*
 21 *Children's Earth Found. v. Nat'l Marine Fisheries Serv.*, Nos. 14-cv-1130 SC, 14-4365 SC, 2015 U.S.
 22 Dist. LEXIS 94997, at *38 (N.D. Cal. July 20, 2015) (relating cases involving “substantially the same
 23 matter” despite “slightly differing parties” and “a different underlying FOIA request”); *In re Leapfron*
 24 *Enters., Inc. Sec. Litig.*, No. 03-cv-5421 RMW, 2005 U.S. Dist. LEXIS 44899, at *3-6 (N.D. Cal. July
 25 5, 2005) (relating cases involving different plaintiffs that “name the same defendants, make similar
 26 factual allegations, and seek redress for violation of the same sections of the Securities and Exchange
 27 Act”).

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Second, the cases should be related to avoid an “an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges” under Civil Local Rule 3-12(a)(2). Civ. L. R. 3-12(a)(2). Given the similar nature of these cases, both would benefit by an order relating them and assigning them to the same judge, thereby avoiding duplication of effort and potentially conflicting rulings. *See Pepper v. Apple*, No. 11-cv-06714 YGR, 2019 U.S. Dist. LEXIS 143264, at *7 (N.D. Cal. Aug. 22, 2019)

The City is cognizant that this Court previously declined to relate an action that challenged a safe-sleeping site in the Haight neighborhood. However, unlike that case, the *Giosso* and *Maher* actions both concern the exact same legal issues. The *Giosso* action purports to sue regarding the very same neighborhood as the *Hastings* action, and the *Maher* action concerns the neighborhood that borders the Tenderloin.

CONCLUSION

Because *Maher*, *Giosso*, and *Hastings* contain substantively similar allegations and claims, and because relating the cases would conserve judicial resources, the City moves this Court for an order finding the three cases related.

Dated: July 29, 2020

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